

REMARKS

This paper is in response to the official action of January 20, 2010, wherein (a) claims 1-3, 6, 8-16, 36-39, 41-44, 48, and 49 stand rejected under 35 U.S.C. § 102 as anticipated by *Leopold* (U.S. Pub. No. 2002/0173839); (b) claims 46 and 47 stand rejected under 35 U.S.C. § 102 as anticipated by *Fischell et al.* (U.S. Patent No. 6,086,604); and (c) claims 4, 5, 7, 17, 40, 18-23, 25, 45, 24, and 26 stand rejected under 35 U.S.C. § 103 as obvious in light of *Leopold* either alone or in combination with *Pacetti* (U.S. Publication No. 2002/0188345), *Da Silva* (U.S. Patent No. 6,729,336), and/or *Smith et al.* (U.S. Publication No. 2002/0156525).

Applicant has amended the claims in the foregoing amendment, which has been filed contemporaneously with a request for continued examination. In light of the foregoing and following remarks, applicant respectfully submits that the application is in condition for allowance.

Claim 1, as amended recites:

1. An apparatus comprising:

a planar structure expandable into a 3-D structure, the planar structure comprising,

first and second spaced side beams which extend continuously along a longitudinal axis; and

a plurality of spaced cross-bands which connect the side beams together, wherein the side beams and the cross-bands form an entirely planar structure in a first position, wherein a first set of the cross-bands are expandable in a first direction substantially perpendicular to the longitudinal axis to form a 3-D structure in a second position, and wherein the first and second side beams are on opposing, outer sides of the planar structure.

Notably, claim 1 clarifies that the side beams and the cross-bands form an entirely planar structure when in a first position, thereby clarifying the examiner's suggestion that the recited structure merely need break any plane. Separately, claim 1 has been amended to recite that the first and second side beams are on opposing outer sides of the planar structure.

None of the art of record teaches, suggests, or otherwise provides the recited subject matter. *Leopold*, for example, which has been discussed at length in the prior rejection of claim 1, cannot be said to teach an apparatus where the side beams and the cross-bands form an entirely planar structure. Nor can *Leopold* be said to teach first and second side beams on opposing outer sides of the planar structure – side beams 126 are

not on opposing outer sides of the planar structure, for example. The rejection of claim 1 is traversed, along with the rejections of the claims depending therefrom.

Applicant separately highlights amended claim 48 (and corresponding amended claim 49, depending from claim 36 discussed below). These claims recite that the side beams extend the entire length of the planar structure.

Independent claim 36 recites:

36. A stent comprising:

first and second spaced side beams which extend along a longitudinal axis of the stent in the non-expanded position; and
a first set of cross-bands that connect the side beams together and a second set of cross-bands that connect the side beams together, wherein the side beams and the first set of cross-bands and the second set of cross-bands form an entirely planar structure in a non-expanded position where that planar structure is expandable into a 3-D structure in an expanded position,

wherein the first set of cross-bands are expandable in a first direction substantially perpendicular to the longitudinal axis, where each cross-band in the first set includes a plurality of interconnected and folded back first and second beam sections in the non-expanded position, and

wherein the second set of cross-bands are expandable in a second direction substantially opposite the first-direction to form the 3-D structure along with the first set of cross-bands, where each of the cross-bands in the second set includes a plurality of interconnected and folded back first and second beam sections in the non-expanded position, wherein the first and second side beams are on opposing, outer sides of the planar structure.

Claim 36 has been amended to recite, *inter alia*, “a first set of cross-bands that connect the side beams together and a second set of cross-bands that connect the side beams together, wherein the side beams and the first set of cross-bands and the second set of cross-bands form an entirely planar structure in a non-expanded position where that planar structure is expandable into a 3-D structure in an expanded position.” Claim 36 has also been amended to recite “wherein the first and second side beams are on opposing, outer sides of the planar structure.” Therefore, for similar reasons to those with respect to claim 1, the rejection of claim 36 is traversed, as are the rejections of the claims depending therefrom. None of the art of record can be fairly described as teaching the recited subject.

Claim 46, as amended, recites:

46. A stent for use with a balloon catheter and comprising:

a unitary stent structure having a longitudinal axis;
the stent structure including first and second parallel spaced apart side beams extending parallel to the longitudinal axis;
a plurality of cross-bands extending across the stent structure and interconnecting the side beams, wherein the plurality of cross-bands and the side beams form the unitary stent structure into an entirely planar structure in a non-expanded position, wherein the first and second side beams are on opposing, outer sides of the planar structure;
each of the cross-bands including a plurality of interconnected and folded back beam sections;
each of the cross-bands arranged to deflect away from the a plane of the stent while in the non-expanded position to an expanded position in response to application of an expansion force from the balloon catheter;
a first set of the cross-beams arranged to deflect away from the plane in a first direction; and
a second set of the cross-beams arranged to deflect away from the plane in a second direction opposite the first direction.

Notably, claim 46 clarifies that “the plurality of cross-bands and the side beams form the unitary stent structure into an entirely planar structure in a non-expanded position.” Furthermore, in addition to these elements forming an entirely planar structure, “the first and second side beams are on opposing, outer sides of the planar structure.” None of the art of record, not *Leopold*, not *Fischell*, etc. can be said to teach the recited combination of features. The rejection of claim 46 as well as that of claim 47 is traversed.

In light of the foregoing amendments, applicant respectfully submits that the pending claims are in condition for immediate allowance. Early confirmation of the same is respectfully requested.

Dated: June 21, 2010

Respectfully submitted,

By 

Paul B. Stephens

Registration No.: 47,970

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant